

SAVE OUR SERVICES - BACKGROUNDER

How Are Our Essential Services Under Attack? Traditionally, trade agreements were focused on setting rules to facilitate trade in goods such as tariff and quotas. But today's "trade" agreements also include broad-ranging provisions to encourage international competition by multi-national businesses in a vast array of service sectors. Now negotiations under the auspices of the World Trade Organization (WTO) and various bilateral and regional pacts are targeting essential services, such as health care, higher education, utilities, hospitals and libraries with the goal of turning these public needs into new tradable units for private, for-profit corporations to control. These proposals would also make it more difficult for communities to regulate privately-owned services in order to achieve vital policy goals such as: universal access to utilities and reasonable rates; expansion of health care coverage; and limitations on development in environmentally sensitive areas. When prior trade agreements resulted in the loss of millions of U.S. manufacturing jobs, we were told that everyone would find new jobs in the high-tech and service sectors. Now these new agreements put government and private-sector service jobs at risk.

WTO's General Agreement on Trade in Services (GATS) was first established in 1995 as one of the agreements to be enforced by the WTO. Rules about actual trade in services across borders are only a small element of GATS. The WTO called the GATS the world's first multilateral investment agreement because its rules cover every conceivable way a service might be delivered, including granting foreign corporations the right to buy or establish new companies within other countries and sending people across borders to perform services. GATS is known as a "bottom-up" agreement because most of its requirements only cover service sectors countries agree to open up for competition by foreign corporations. GATS negotiators like to portray GATS as a very flexible agreement from which countries may completely exclude certain sectors. In reality, the GATS text is very ambiguous about what aspects of our lives its rules cover. Some GATS constraints apply even if a country has not committed a sector. GATS also contains rules constraining how governments can regulate the service sector.

Public services at risk under GATS: Article I of the GATS contains a poorly-worded clause excluding from its coverage government services that are "supplied neither on a commercial basis nor in competition with one or more service suppliers." However, most government services (like health care, education and utilities) involve some public/private mix or fee structure, fall outside of this exception and thus are covered by GATS. Public interest policies governing such services could be challenged for violating WTO rules in closed-door trade tribunals. A country would have to change the WTO-illegal rules or face trade sanctions.

GATS-2000 negotiations: Now the WTO countries – pushed in particular by the United States and the European Union (EU) and their massive service corporations – are seeking a major expansion of the existing GATS. In the "GATS-2000" negotiations now underway, the goal is to bring many more new service sectors under the control of the WTO. In 1995, the United States committed some important sectors including: insurance (including health care), other financial services, telecommunications, sewage services, wholesale and retail distribution services (including land use), gambling, construction and many others. In the new round of GATS negotiations, the United States is proposing to make new commitments in higher education, transportation and energy and certain professional services.

State sovereignty under attack: Although the GATS deals with many service sectors regulated by state and local governments, governors, mayors and state legislatures have been left out of these negotiations. Because the terms of the agreement restrict the type of regulations states and localities can apply to foreign service firms, state sovereignty is under attack. If a state or local policy is successfully challenged in the WTO, the trade penalties imposed are so severe that the U.S. government has never failed to alter its policies when a WTO panel has ruled against them. The federal government is obliged to use all constitutionally-available powers - for instance pre-emptive legislation, lawsuits and cutting off funding - to force state and local government compliance with trade tribunal rulings.

Race to the bottom in domestic regulation: In addition, some WTO countries have proposed the adoption of new GATS rules (called "disciplines on domestic regulation" or Article VI.4 rules) which would place new constraints on our local, state and federal governments' abilities to regulate services. These proposals would require that every service sector regulation be both "necessary" and the "least trade restrictive way" to accomplish a policy goal. Our local governments would be forced to focus first on corporate rights, not our needs, when setting education or health policy. If this happens, legitimate domestic policies that treat domestic and foreign services alike could be challenged before closed-door trade tribunals in Geneva where the burden of proof would fall on government officials to prove that there wasn't a less trade restrictive way to manage their service sectors.

One-way street: If a nation seeks to withdraw a sector from GATS coverage, Article XXI requires governments to enter into negotiations to compensate trading partners for their lost business opportunities.

ACT NOW! WTO GATS services negotiations are slated to conclude by the end of 2006.

- Call your congressional representative and tell them you are concerned about the WTO GATS negotiations and that the U.S. Trade Representative must keep essential public services such as energy and water utilities, social security, and education off the negotiating table! Media and culture should also be kept out of the GATS. Service sectors that the USTR has already committed to the GATS must be taken back in this round of negotiations. These include: health care (committed under insurance), hospitals, libraries, and zoning policies (covered under retail distribution and others).
- Ask your governor and state legislators to safeguard your state's authority in ongoing GATS negotiations.

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